



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

REZONING APPLICATION ANALYSIS

ZONING CASE #: Z2015-17

LEGISTAR: 20150383

LANDOWNERS: Sansea Properties, LLC
P.O. Box 5074
Marietta, GA 30064

APPLICANT: Same as above

AGENT: N/A

PROPERTY ADDRESS: a portion of 257 Mountain View Ridge Road

PARCEL DESCRIPTION: a portion of 16 11530 0620

AREA: 0.09 acres **COUNCIL WARD:** 4

EXISTING ZONING: R-4 (Single Family Residential – 4 units / acre)

REQUEST: R-2 (Single Family Residential – 2 units / acre)

FUTURE LAND USE: LDR (Low Density Residential)

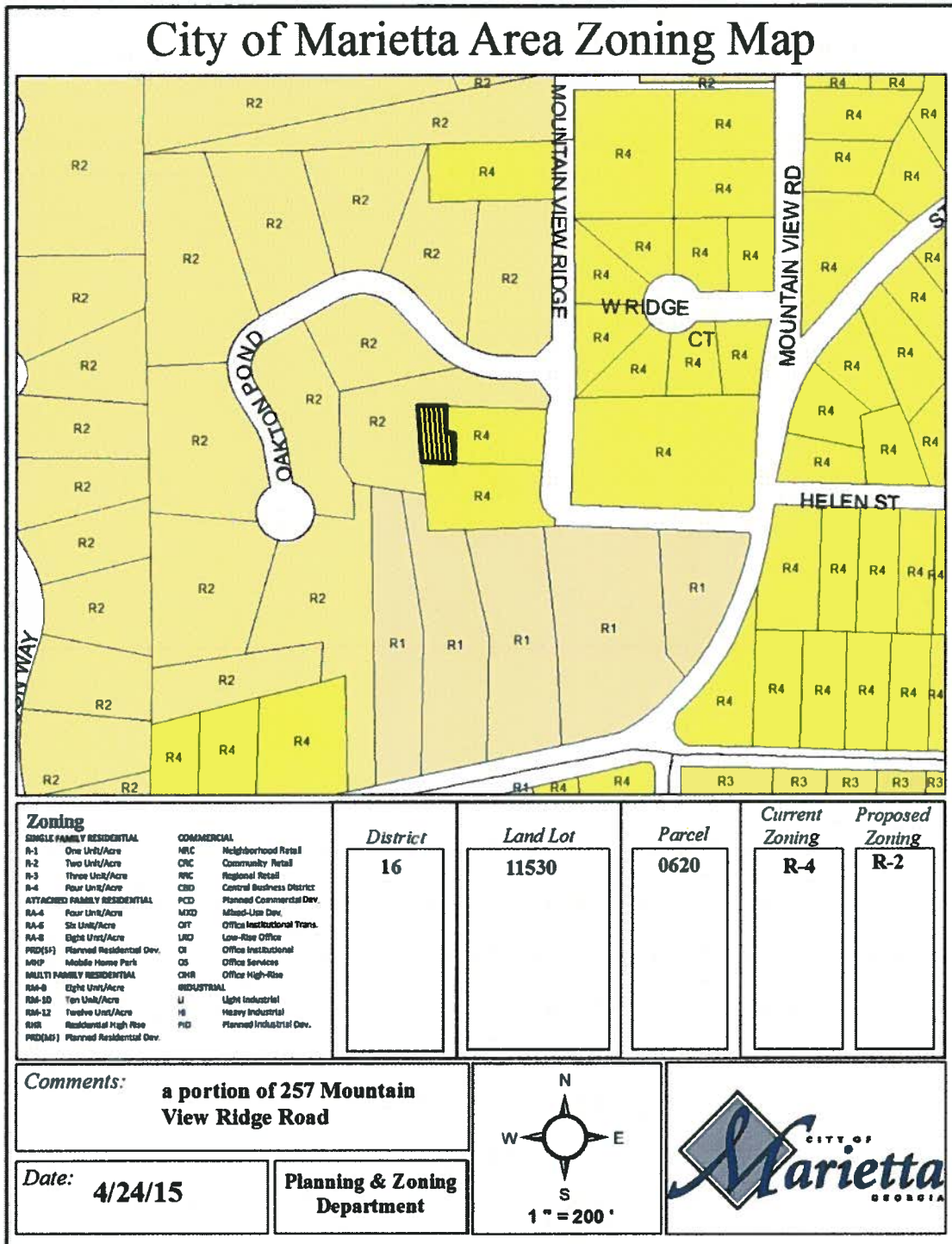
REASON FOR REQUEST: The applicant is requesting the rezoning of a small portion of land in the backyard of 257 Mountain View Ridge Road from R-4 to R-2 so it may be combined with the property at 801 Oakton Pond.

PLANNING COMMISSION HEARING: Tuesday, June 2, 2015 6:00 p.m.

CITY COUNCIL HEARING: Wednesday, June 10, 2015 7:00 p.m.

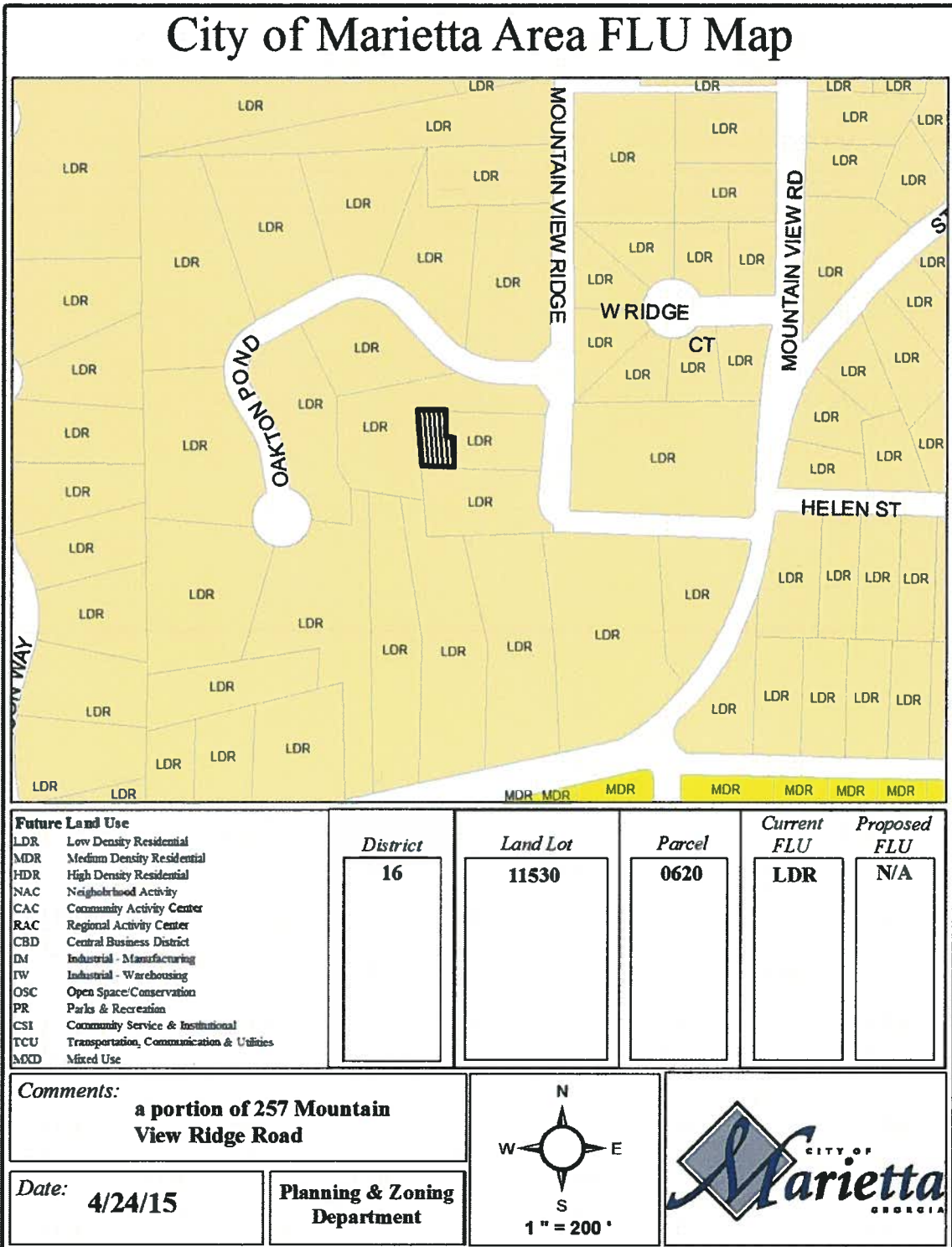
MAP

City of Marietta Area Zoning Map



FLU MAP

City of Marietta Area FLU Map



PICTURES OF PROPERTY



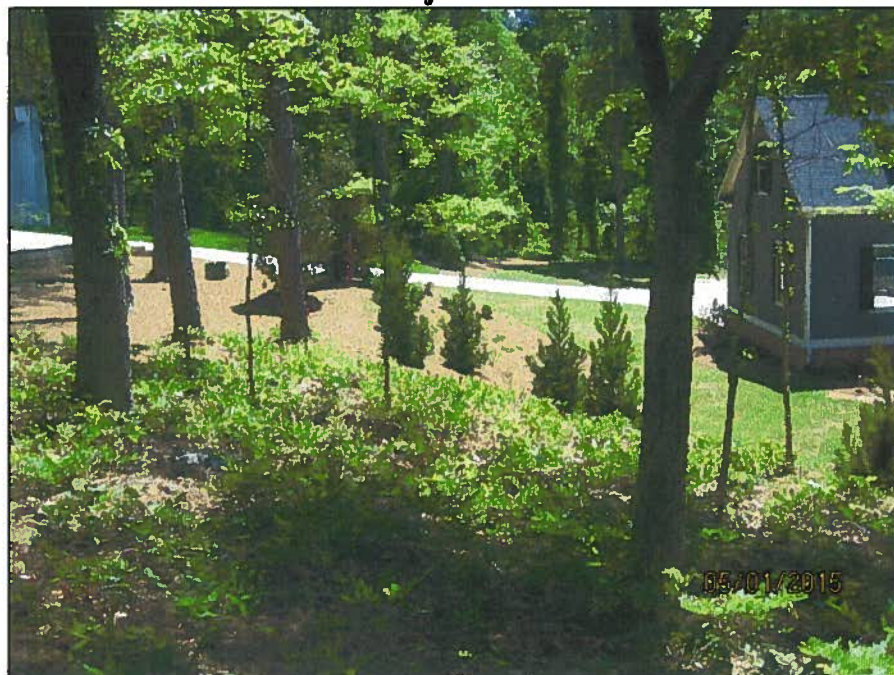
Front of 257 Mountain View Ridge Road



801 Oakton Pond



Subject area



Subject area

STAFF ANALYSIS

Location Compatibility

Sansea Properties LLC is requesting the rezoning of a portion (0.09 acres or ~3,920.4 square feet) of 257 Mountain View Ridge Road from R-4 (Single Family Residential – 4 units / acre) to R-2 (Single Family Residential – 2 units / acre). All of the surrounding properties are used as single family residences and primarily zoned R-2 and R-4, although there are some residences nearby on Polk Street zoned R-1. New homes have recently been constructed at 249 & 257 Mountain View Ridge Road and 801 Oakton Pond. The purpose of this rezoning is to shift the property line between 257 Mountain View Ridge Road and 801 Oakton Pond, which have different zoning classifications (R-4 and R-2 respectively).

Use Potential and Impacts

The proposed rezoning should have little, if any, impact on the surrounding area. If approved, the rezoning would allow the property line between 801 Oakton Pond and 257 Mountain View Ridge Road to shift to the east, resulting in a smaller rear yard for 257 Mountain View Ridge Road and a larger side yard for 801 Oakton Pond. However, properties of two different zoning classifications cannot be combined. If not for the differing zoning classifications, no variances or rezonings would be necessary for this request, as the property line being shifted does not create any other nonconformities. In fact, shifting the property line to the east actually eliminates a possible setback encroachment, as the survey indicates that the home at 801 Oakton Pond was built within the side setback.

Since this rezoning is only necessary in order to shift the property line – there will be no physical change on the site. As a result, this rezoning should have little or no impact on the surrounding neighborhood.

All of the properties in the area, including the subject property, have a Future Land Use designation of LDR (Low Density Residential). The City's Comprehensive Plan states that this future land use category is appropriate for low density housing up to three (3) units per acre. Since this rezoning request will not result in additional units or density, it is considered compatible with the Comprehensive Plan's outline for the area.

Environmental Impacts

There is no indication of any floodplain, streams, wetlands, or endangered species on the subject property. However, Public Works staff has noted that *"the magnolia trees shown within the 20-ft. wide drainage and water easement have the potential to interfere with the proper function of the drainage and drinking water structures located within that easement."*



Economic Functionality

Since the area in question does not meet the minimum lot size for either R-2 or R-4 zoning, it has no economic functionality of its own and would have to be combined with an adjacent property to be of use.

Infrastructure

This rezoning request should have no impact on the transportation, education, water, sewer, electricity, or other public infrastructure in the area, as there is no proposed construction prompting this request.

History of Property

There is no zoning or variance history for the property at 257 Mountain View Ridge Road. However, Oakton Pond subdivision, which 801 Oakton Pond is a part of, was rezoned (Z-9722) from R-30 (Single Family Residential) to PRC (Planned Residential Community) on June 11, 1997 with the stipulations regarding the gate and sidewalk along Mountain View Ridge Road. When zoning classifications changed city-wide in 1998, this subdivision was assigned the R-2 zoning classification.



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

ANALYSIS & CONCLUSION

Sansea Properties LLC is requesting the rezoning of 0.09 acres (~3,920.4 square feet) of 257 Mountain View Ridge Road from R-4 to R-2 so it may be sold and combined with the property at 801 Oakton Pond. All of the surrounding properties are used as single family residences and primarily zoned R-2 and R-4, although there are some residences nearby on Polk Street zoned R-1. New homes have recently been constructed at 249 & 257 Mountain View Ridge Road and 801 Oakton Pond.

Properties of two different zoning classifications cannot be combined. If not for the differing zoning classifications, no variances or rezonings would be necessary for this request, as the property line being shifted does not create any other nonconformities. In fact, shifting the property line to the east actually eliminates a possible setback encroachment, as the survey indicates that the home at 801 Oakton Pond was built slightly within the side setback.

Public Works staff has also noted that *“the magnolia trees shown within the 20-ft. wide drainage and water easement have the potential to interfere with the proper function of the drainage and drinking water structures located within that easement.”*

Since this rezoning is only necessary in order to shift the property line – there will be no physical change on the site. As a result, this rezoning should have little or no impact on the surrounding neighborhood.

This rezoning request is considered compatible with the Comprehensive Plan’s outline for the area, which designates its future land use as Low Density Residential.

Prepared by: Shelly Green

Approved by: Rusty Roth



DATA APPENDIX

CITY OF MARIETTA - WATER

Is a water line adjacent to the property?	No
If not, how far is the closest water line?	70' north on Oakton Pond
Size of the water line?	8"
Capacity of the water line?	Variable based on conditions
Approximate water usage by proposed use?	N/A

CITY OF MARIETTA - SEWER

Is a sewer line adjacent to the property?	Yes
If not, how far is the closest sewer line?	---
Size of the sewer line?	6"
Capacity of the sewer line?	Variable based on conditions
Estimated waste generated by proposed development?	N/A
Treatment Plant Name?	N/A
Treatment Plant Capacity?	N/A
Future Plant Availability?	N/A

Additional Comment - Private water service easement crosses property.



DATA APPENDIX CONTINUED

DRAINAGE AND ENVIRONMENTAL CONCERNS

Does flood plain exist on the property?	No
What percentage of the property is in a floodplain?	N/A
What is the drainage basin for the property?	Noses
Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency?	No
If so, is the use compatible with the possible presence of wetlands?	N/A
Do stream bank buffers exist on the parcel?	No
Are there other topographical concerns on the parcel?	No
Are the storm water issues related to the application?	No
Potential presence of endangered species in the area?	No

Transportation

What is the road effected by the proposed change?	Mountain View Ridge Road
What is the classification of the road?	Local
What is the traffic count for the road?	---
Estimated number of cars generated by the proposed development?	---
Estimated number of trips generated by the proposed development?	---
Do sidewalks exist in the area?	No
Transportation improvements in the area?	No
If yes, what are they?	N/A
<ul style="list-style-type: none">The magnolia trees shown within the 20-ft. wide drainage and water easement have the potential to interfere with the proper function of the drainage and drinking water structures located within that easement.	



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DATA APPENDIX CONTINUED

EMERGENCY SERVICES

Nearest city or county fire station from the
development? _____

Distance of the nearest station? _____

Most likely station for 1st response? _____

Service burdens at the nearest city fire
station (under, at, or above capacity)? _____

MARIETTA POWER - ELECTRICAL

Does Marietta Power serve this site? Yes x No

If not, can this site be served? Yes No

What special conditions would be involved in serving this site?

Additional comments:



DATA APPENDIX CONTINUED

MARIETTA CITY SCHOOLS

Marietta City Schools Impact Assessment:

Elementary School Zone Servicing Development:

Grades six (6) through twelve (12) will be serviced by:

- Marietta Sixth Grade Academy
- Marietta Middle School
- Marietta High School

Current Capacity at Servicing Elementary School:

Current Capacity at Marietta Sixth Grade Academy:

Current Capacity at Marietta Middle School:

Current Capacity at Marietta High School:

Current Enrollment at Servicing Elementary School:

Current Enrollment at:

- Marietta Sixth Grade Academy:
- Marietta Middle School:
- Marietta High School:

Number of students generated by present development:

Number of students projected from proposed development at:

- Elementary level:
- Sixth Grade level:
- Middle School 7th & 8th Grade level:
- High School level:

New School(s) planned that might serve this area:

Comments:

TO: Marietta Daily Journal
FROM: City of Marietta
RUN AD DATE: May 15, 2015

PUBLIC NOTICE OF REZONINGS AND VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held on the following rezonings by the Planning Commission on **Tuesday, June 2, 2015, 6:00 P.M.**, City Hall, for a recommendation to the City Council at their meeting on **Wednesday, June 10, 2015, 7:00 p.m.**, City Hall, for a final decision to be made.

Z2015-17 [REZONING] SANSEA PROPERTIES, LLC requesting rezoning for property located in Land Lot 1153, District 16, Parcel 0620, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of 257 Mountain View Ridge Road from R-4 (Single Family Residential – 4 units/acre) to R-2 (Single Family Residential – 2 units/acre. Ward 4.

A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

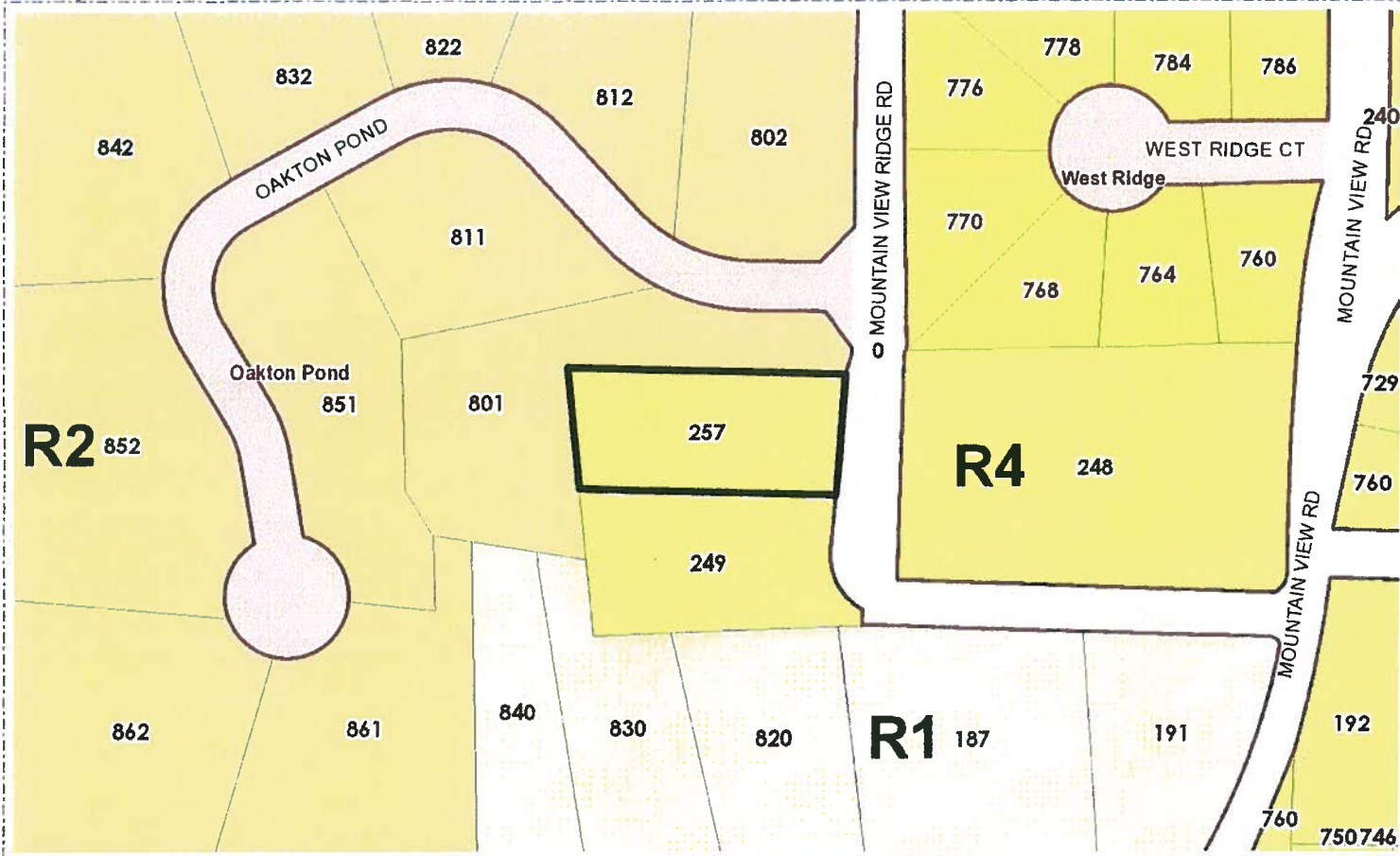
For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



Rezoning

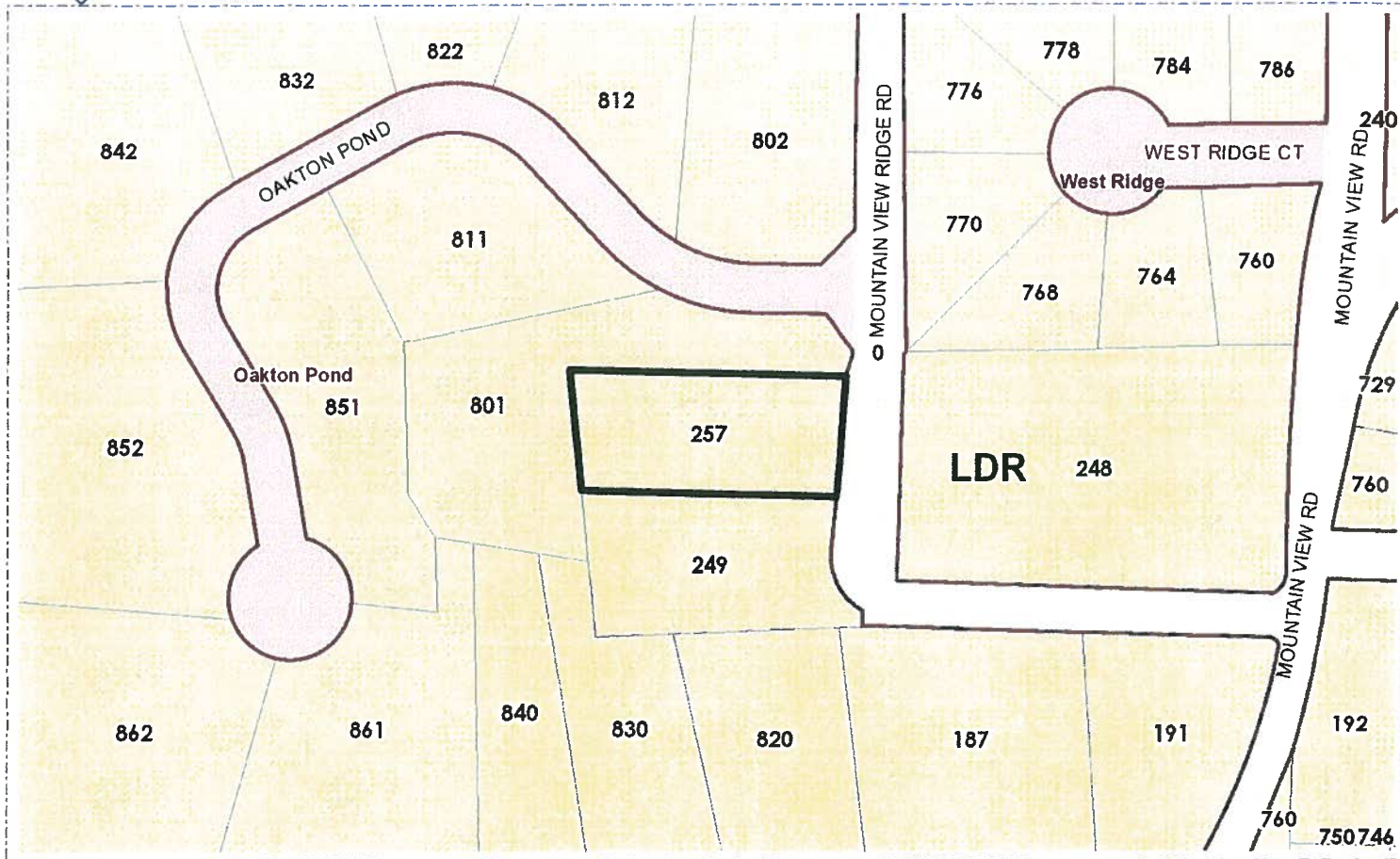


Address	Parcel Number	Acreage	Ward	Zoning	FLU
257 MOUNTAIN VIEW RIDGE RD	16115300620	1	4A	R4	LDR
Property Owner: Sansea Properties					
Applicant:					
Proposed Zoning: R4					
Agent:					
Proposed Use:					
Planning Commission Date: 06/02/2015					
City Council Hearing Date: 06/10/2015 Case Number: Z2015-17					
City of Marietta Planning & Zoning					

Zoning Symbols
 --- Railroads
 [] City Limits
 [] Cobb County Pockets
 NA
 [] R1 - Single Family Residential (1 unit/acre)
 [] R2 - Single Family Residential (2 units/acre)
 [] R3 - Single Family Residential (3 units/acre)
 [] R4 - Single Family Residential (4 units/acre)
 [] RA4 - Single Family Residential - Attached
 [] RA8 - Single Family Residential - Attached
 [] RA8 - Single Family Residential - Attached
 [] MHP - Mobile Home Park
 [] PRD-SF - Planned Residential Dev. Single Family
 [] RM8 - Multi Family Residential (8 units/acre)
 [] RM10 - Multi Family Residential (10 units/acre)
 [] RM12 - Multi Family Residential (12 units/acre)
 [] RHR - Residential High Rise
 [] PRD-MF - Planned Residential Dev. Multi Family
 [] NRC - Neighborhood Retail Commercial
 [] CRC - Community Retail Commercial
 [] RRC - Regional Retail Commercial
 [] PCD - Planned Commercial Development
 [] LI - Light Industrial
 [] HI - Heavy Industrial
 [] PID - Planned Industrial Development
 [] MXD - Mixed Use Development
 [] CBD - Central Business District
 [] OIT - Office Institutional Transitional
 [] LRO - Low Rise Office
 [] OI - Office Institutional
 [] OS - Office Services
 [] OHR - Office High Rise

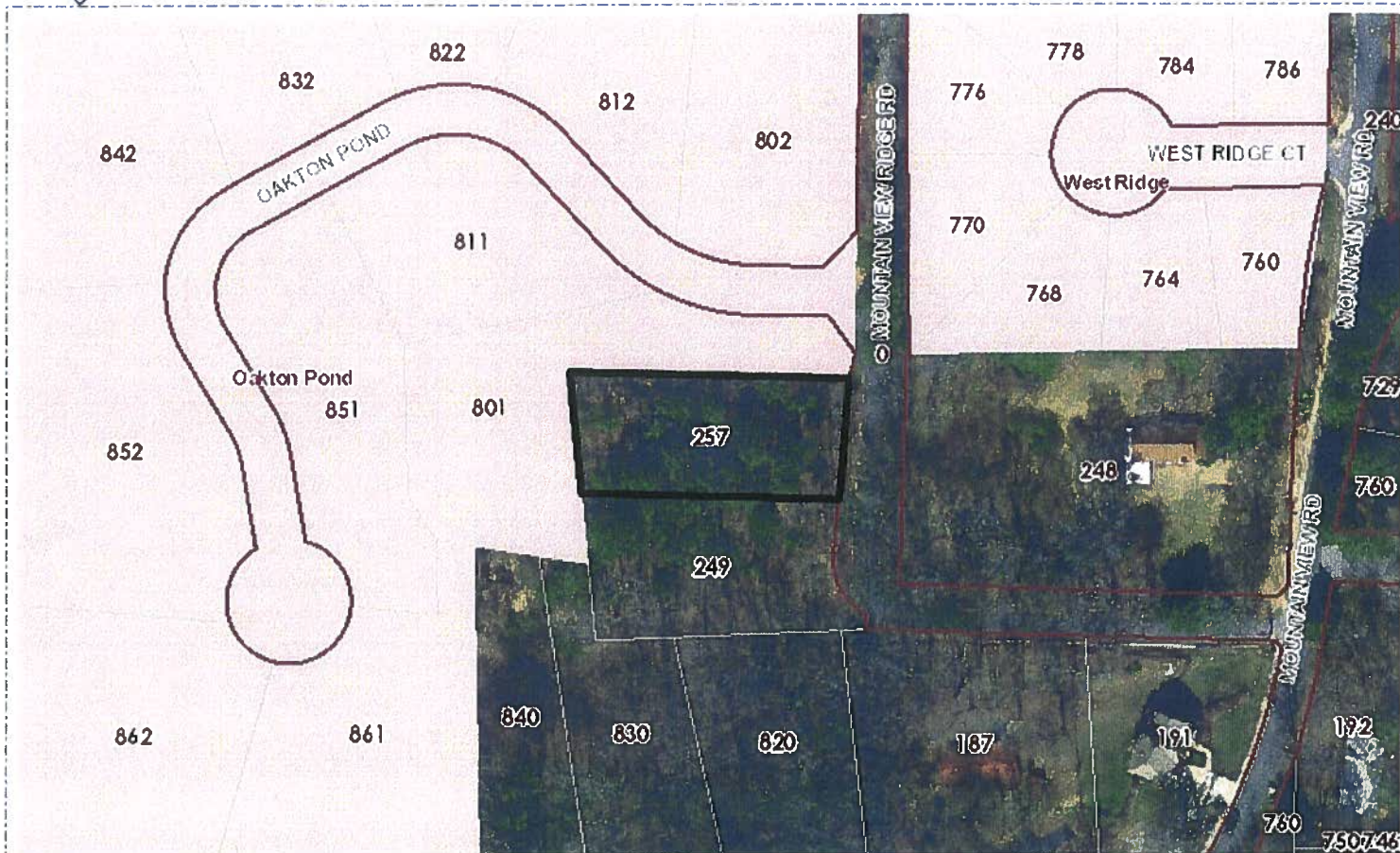


Future Land Use






Address	Parcel Number	Acreage	Ward	Zoning	FLU
257 MOUNTAIN VIEW RIDGE RD	16115300620	1	4A	R4	LDR
Planning Commission Hearing Date: 06/02/2015				Future Land Use Symbols Railroads City Limits Cobb County Pockets RAC - Regional Activity Center CAC - Community Activity Center NAC - Neighborhood Activity Center CBD - Central Business District MXD - Mixed Use Development CSI - Community Service and Institutional HDR - High Density Residential MDR - Medium Density Residential LDR - Low Density Residential OSC - Open Space / Conservation PR - Parks / Recreation IW - Industrial Warehousing IM - Industrial Manufacturing TCU - Transportation and Utilities	
City Council Hearing Date: 06/10/2015					
Future Land Use: LDR					
Case Number:					
Comments:					
City of Marietta Planning & Zoning					

Aerial Map

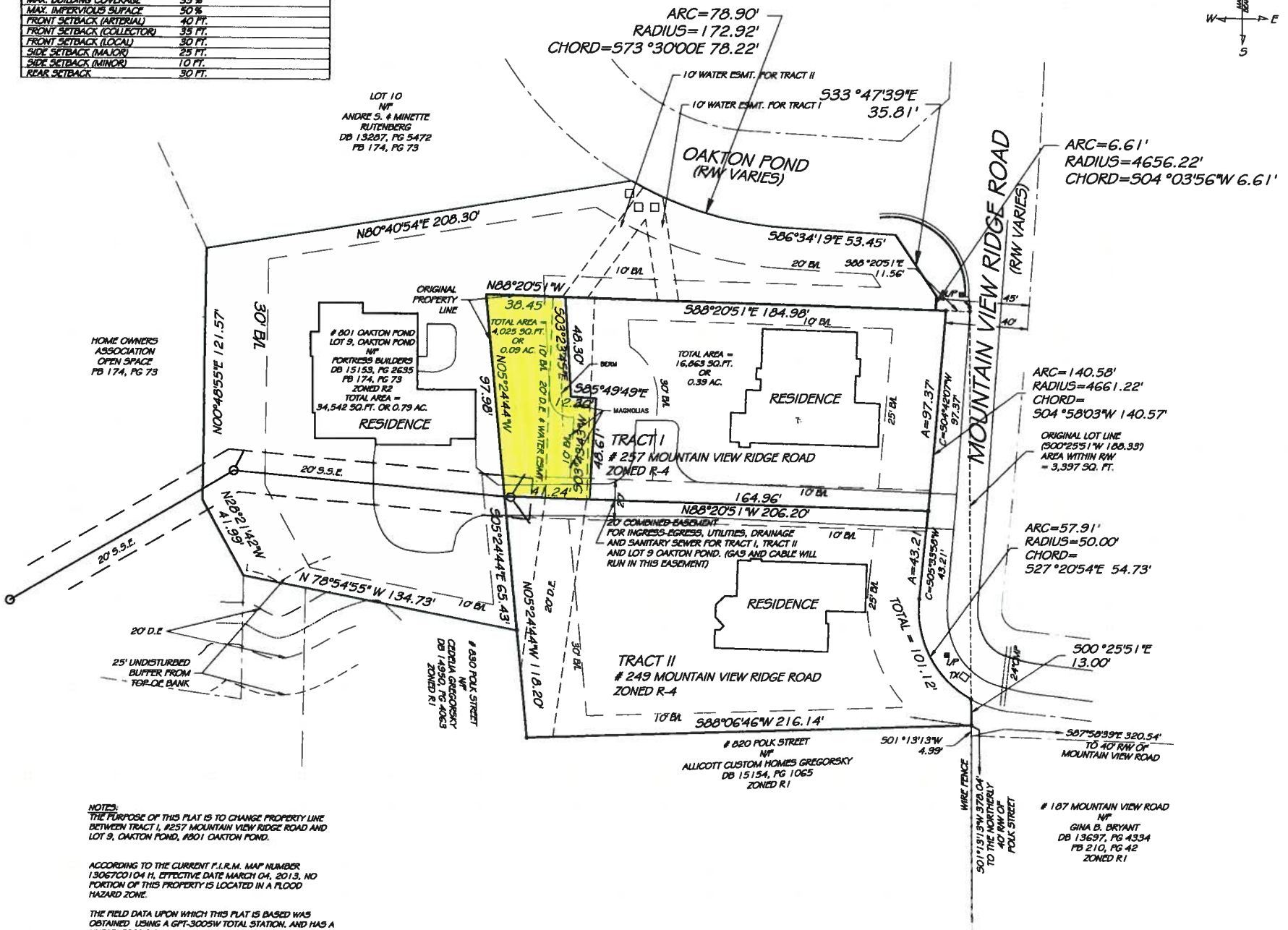
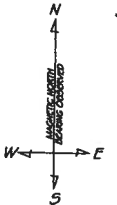


Address	Parcel Number	Acreage	Ward	Zoning	FLU
257 MOUNTAIN VIEW RIDGE RD	16115300620	1	4A	R4	LDR
<div> <div>Property Owner:</div> <div>Sansea Properties</div> </div>					
<div> <div>Applicant:</div> <div></div> </div>					
<div> <div>City Council Hearing Date:</div> <div>06/10/2015</div> </div>					
<div> <div>Planning Commission Hearing Date:</div> <div>06/02/2015</div> </div>					
<div> <div>BZA Hearing Date:</div> <div>Case Number: Z2015-17</div> </div>					
<div> <div>Comments:</div> <div></div> </div>					
<div> <div>City of Marietta Planning & Zoning</div> </div>					

Legend

-  Railroads
-  City Limits
-  Cobb County Pockets

ZONING INFORMATION	
ZONING	R-2
MIN. LOT SIZE	15,000 SQ. FT.
MAX. DENSITY	TWO DWELLING UNITS PER ACRE
MIN. LOT WIDTH	100 FT. 75 FT. FOR A CUL-DE-SAC
MAX. BUILDING HEIGHT	35 FT.
MIN. FLOOR AREA	1,200 SQ. FT.
MAX. BUILDING COVERAGE	35%
MAX. IMPERVIOUS SURFACE	50%
FRONT SETBACK (ARTERIAL)	40 FT.
FRONT SETBACK (COLLECTOR)	35 FT.
FRONT SETBACK (LOCAL)	30 FT.
SIDE SETBACK (MAJOR)	25 FT.
SIDE SETBACK (MINOR)	10 FT.
REAR SETBACK	30 FT.



NOTES:
THE PURPOSE OF THIS PLAT IS TO CHANGE PROPERTY LINE BETWEEN TRACT I, #257 MOUNTAIN VIEW RIDGE ROAD AND LOT 9, OAKTON POND, #801 OAKTON POND.

ACCORDING TO THE CURRENT F.I.R.M. MAP NUMBER 13067CD104.11, EFFECTIVE DATE MARCH 04, 2013, NO PORTION OF THIS PROPERTY IS LOCATED IN A FLOOD HAZARD ZONE.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED USING A GPT-3005W TOTAL STATION, AND HAS A LINEAR PRECISION RATIO OF ONE FOOT IN 21,550 FEET AND AN ANGULAR ERROR OF 09 SECONDS PER ANGLE AND WAS ADJUSTED USING THE COMPASS METHOD.

THIS PLAT HAS BEEN CHECKED FOR MATHEMATICAL ACCURACY AND CLOSURES WITHIN ONE FOOT IN 118,363 FEET.

OWNER: SANSEA PROPERTIES, LLC

DATE

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION OF THE GROUND.

GEORGIA REGISTERED LAND SURVEYOR No. 2041 DATE

ZONING INFORMATION	
ZONING	R-4
MIN. LOT SIZE	7,500 SQ. FT.
MAX. DENSITY	FOUR DWELLING UNITS PER ACRE
MIN. LOT WIDTH	75 FT. 60 FT. FOR A CUL-DE-SAC
MAX. BUILDING HEIGHT	35 FT.
MIN. FLOOR AREA	1,200 SQ. FT.
MAX. BUILDING COVERAGE	35%
MAX. IMPERVIOUS SURFACE	50%
FRONT SETBACK (ARTERIAL)	35 FT.
FRONT SETBACK (COLLECTOR)	25 FT.
FRONT SETBACK (LOCAL)	25 FT.
SIDE SETBACK (MAJOR)	25 FT.
SIDE SETBACK (MINOR)	10 FT.
REAR SETBACK	30 FT.

THE UNDERSIGNED, AS PUBLIC WORKS DIRECTOR OF THE CITY OF MARIETTA, GEORGIA, HEREBY APPROVES THIS EXEMPTION PLAT FOR THE RECORDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

DATE

THE UNDERSIGNED, AS DEVELOPMENT SERVICES DIRECTOR OF THE CITY OF MARIETTA, GEORGIA HEREBY APPROVES THIS EXEMPTION PLAT FOR RECORDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

DATE

REFERENCES:
PLAT BOOK 169, PAGE 54
PLAT BOOK 174, PAGE 73
PLAT BOOK 273, PAGE 765
PLAT BOOK 274, PAGE 202
PLAT BOOK 274, PAGE 672
DEED BOOK 2030, PAGE 46

THE APPROVAL OF THIS PLAT SHALL NOT CONSTITUTE A RELEASE OF ANY RIGHT, TITLE OR INTEREST CURRENTLY OR PREVIOUSLY HELD BY THE CITY OF MARIETTA, INCLUDING ANY EASEMENTS, RIGHT-OF-WAY OR OTHER INTEREST IN THE REAL PROPERTY. THE CITY HEREBY RETAINS ANY AND ALL CURRENT OR PREVIOUS INTEREST IN SAID PROPERTY.

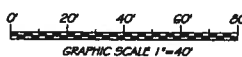
ZONING PLAT
FOR
SANSEA PROPERTIES, LLC
BEING
#257 MOUNTAIN VIEW RIDGE ROAD

#801 OAKTON POND
LOT 9, OAKTON POND
LOCATED IN LAND LOT 1153
16th DISTRICT, 2nd SECTION
CITY OF MARIETTA
COBB COUNTY, GEORGIA
DATE: 04-20-2015 ~ SCALE: 1"=40'

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67, AUTHORITY O.C.G.A. SECS. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

R.F.M. Consulting, LLC
707 WHITLOCK AVENUE BLDG.
A-37 MARIETTA, GA 30084
PHONE (770) 757-3977 FAX
(770) 499-8498
EMAIL: RFMCON@BELLSSOUTH.NET

Drawn By: Mark S. Price, Jr.
CPL 9703-31-5-2270
PLAT 1153-04-02-01-5.dwg



IMPROVEMENTS ARE AS-BUILT.

COUNCIL BILL NO: 445597

ORDINANCE NO: 5704

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia, consisting of 10.266 acres and being located off Mountain View Ridge Road.

WHEREAS, application was filed by Doug Cordell for rezoning property in the corporate limits of the City of Marietta, Georgia; and

WHEREAS, following proper notice, a public hearing was held before this body; and

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: The following property to wit:

All that tract or parcel of land lying and being located in Land Lots 1153 and 1224 of the 16th District, 2nd Section of Cobb County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin located on the Westerly right-of-way of Mountain View Ridge Road (40' right-of-way) said iron pin being located \pm 550 feet from the intersection of the Southerly right-of-way of said Mountain View Ridge Road and the Westerly right-of-way of Mountain View Road as measured in a Westerly and Northerly direction along the Southerly and Westerly right-of-way of said Mountain View Ridge Road and leaving said right-of-way and running thence S 89 degrees 54' 12" W for a distance of 224.29 feet to an iron pin; thence running S 05 degrees 55' 58" E for a distance of 166.43 feet to a point; thence running N 78 degrees 50' 06" W for a distance of 132.21 feet to an iron pin; thence running S 00 degrees 40' 38" E for a distance of 522.20 feet to an iron pin located on the Northwesterly right-of-way of Polk Street (40' right-of-way); thence running S 74 degrees 53' 04" W along the Northwesterly right-of-way of Polk Street for a distance of 20.55 feet to an iron pin; thence leaving said right-of-way and running N 00 degrees 42' 06" W for a distance of 201.28 feet to an iron pin; thence running S 75 degrees 32' 26" W for a distance of 45.00 feet to an iron pin; thence running N 04 degrees 02' 41" E for a distance of 70.00 feet to an iron pin; thence running S 81 degrees 31' 33" W for a distance of 294.80 feet to an iron pin; thence running N 00 degrees 40' 38" W for a distance of feet to an iron pin; thence running N 87 degrees 13' 04" E for a distance of 480.15 feet to an iron pin; thence running S 02 degrees 12' 40" E for a distance of 99.93

feet to an iron pin; thence running N 87 degrees 07' 55" E for a distance of 199.91 feet to an iron pin located on the Westerly right-of-way of Mountain View Ridge Road; thence running S 01 degrees 42' 51" E along the Westerly right-of-way of Mountain View Ridge Road for a distance of 343.12 feet to an iron pin which is the POINT OF BEGINNING.

Section 2: The above described property is hereby rezoned into the corporate limits of the City of Marietta, Georgia, from R-30 (Single Family Residential) to PRC (Planned Residential Community).

Section 3: The following stipulations are incorporated as conditions of Zoning:

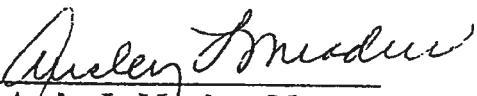
1. The Developer shall improve Mountain View Ridge Road along the entire frontage of the tract to a standard 24 foot width in accordance with the provisions of Marietta City Code, Section 7-8-4-10-020.
2. The Developer shall incorporate into the plat and restrictive covenants all of the language included in Attachment "A", which is herein incorporated by reference as part of this ordinance.
3. The Developer shall comply with all the provisions of Attachment "B" which is herein incorporated by reference as part of this ordinance.
4. The Developer shall execute Attachment "C", "Release and Indemnity Agreement" which is herein incorporated by reference as part of this ordinance.


Section 4: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.


Section 5: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 6: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: June 11, 1997

Approved: 
Ansley L. Meaders, Mayor

ATTEST: 
Sheila R. Hill, CMC City Clerk

Approved as to form: 
Douglas R. Haynie,
City Attorney

ATTACHMENT "A"

LANGUAGE TO BE ADDED TO
PLAT, DEED AND RESTRICTIVE COVENANTS

1. Developer, his successors in title and all subsequent owners shall be liable in the event the City or other emergency vehicles must ~~crash~~ the gate to obtain entry for emergency purposes. Such liability shall include damage to the gate and accompanying equipment as well as any and all damage to the emergency vehicle or personnel. The decision on whether or not to crash the gate shall be left within the sole discretion of the driver of the emergency vehicle.
2. Neither the City nor any other emergency provider shall be liable to the owner, occupant, employee, invitee, guest or purchaser for delay caused by not being able to obtain access to any person or home needing emergency service caused by the inability or delay to get through the main gate of said community.
3. Developer and all subsequent owners shall and do hereby indemnify, release and hold harmless the City of Marietta, its Mayor, its elected officials, its employees, its agents and all emergency providers and their agents from any and all claims of any parties arising out of delays or non-entry into the gated community. This indemnity, release and hold harmless shall apply to claims of all parties, including the occupants of the subdivision, their guests, and any and all persons located within the gated community.
4. Developer and all subsequent owners shall allow the City and other emergency vehicles immediate access on a twenty-four (24) hour basis to the gated community. Neither the City nor any emergency provider shall be liable in the event that the access code should become available to other parties.
5. This document and the matters contained herein shall be binding upon any subsequent homeowners association formed by the developer or the lot owners. All property held by the homeowners association shall be subject to this agreement and all property held by the homeowners association shall be subject to the covenants set forth herein.
6. The above covenants shall be placed on the approved subdivision plat recorded on the deed records of Cobb County, Georgia, shall be placed in any by-laws of the homeowners association and shall be referenced in each deed of conveyance from the developer to each subsequent lot/home purchaser.

ATTACHMENT "B"

1. All private roads must be designed and constructed according to Section 7-8-4-10-020 of the Marietta City Code.
2. Gates must be set back a minimum of 50 feet from public right-of-way. Minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than 30 feet, provided, however, that the required gate width may be accomplished through the combination of adjacent entrance and exit gates of equal width.
3. Gate width and placement must be reviewed by, and are subject to approval by, both the Fire Department and Department of Public Works.
4. The Fire Department must review and may approve arrangements for access through the gate for emergency service vehicles. Emergency service vehicles include, but are not limited to, fire suppression equipment, medical emergency vehicles and law-enforcement vehicles. Necessary arrangements include, but are not limited to; Emergency Mechanical Disconnects (crash bolts), siren activated entry (Siren Operated Sensor), Knox/fire boxes for keyed/keyless entry, keypad code entry, occupant telephone authorized entry, and automatic gate opening upon power disconnect.
5. The Department of Public Works must review and may approve arrangements for access through the gate for non-emergency public service vehicles. Non-emergency public service vehicles include, but are not limited to, mail delivery, garbage pickup, public utility meter reading and public utility maintenance. Necessary arrangements include, but are not limited to, access easements for refuse collection vehicles and appropriate utility easements for public utility development and maintenance.
6. The developer shall grant such easements to the appropriate governing authority or utility company as are necessary for public purposes regarding said community.
7. The City must be properly indemnified against any liability resulting from the proposed development. This indemnification shall be evidenced by: 1) release

and indemnity agreement placed on the plat; 2) a separate release and indemnity agreement executed by the developer; 3) a clause in each deed of conveyance by the developer for each lot in the subdivision acknowledging the release and indemnity agreement; 4) assumption of liability of the release and indemnity agreement by the homeowners association; 5) assumption of liability of the release and indemnity agreement in the Protective Covenants which shall become part of the covenants of the subdivision; and 6) each deed of purchase being subject to, and the purchaser assuming the liability of, the indemnity agreement referenced herein by virtue of taking title to the property. The developer's liability shall end three (3) years after the last lot has been sold by the developer, provided that there are then no pending or threatened claims against the developer, the City or the Homeowner's Association. The three (3) year limit shall not apply to the liability of the Homeowners' Association or any purchaser of a subdivided lot. All language for liability agreements and covenants shall read as required by the City of Marietta.

8. In the event that the developer does not obtain any approval required hereunder, same shall not alleviate the requirement of obtaining such approval.

ATTACHMENT "C"

REVISED AS PER AGREEMENT WITH DEVELOPER.

STATE OF GEORGIA)
) SS.:
COUNTY OF COBB)

RELEASE AND INDEMNITY AGREEMENT

In consideration of the mutual covenants contained herein, of the sum of One Dollar (\$1), and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the undersigned does hereby forever release, discharge, and covenant to hold harmless, the City of Marietta, Georgia, its Mayor, its elected officials, its employees, and its agents, and any other person, firm, or corporation charged or chargeable with responsibility or liability, their heirs, administrators, executors, successors and assigns, from any and all claims, demands, damages, costs, attorneys' fees, expenses, loss of services, actions and causes of action, particularly on account of all personal injury, disability, property damage, loss or damages of any kind sustained or that may be sustained by any person, including the undersigned, by virtue of the fact that the proposed gated community by the undersigned will have restricted, limited access as opposed to unrestricted, unlimited access to a residential community in the City of Marietta, Georgia.

This Release and Indemnity Agreement shall be binding upon and shall inure to the benefit of the undersigned, his respective heirs, legal representatives, successors and assigns.

The undersigned acknowledges receipt of a copy of this Release and Indemnity Agreement prior to signing it.

Signed, and sealed, this ____ day of _____, 1997.

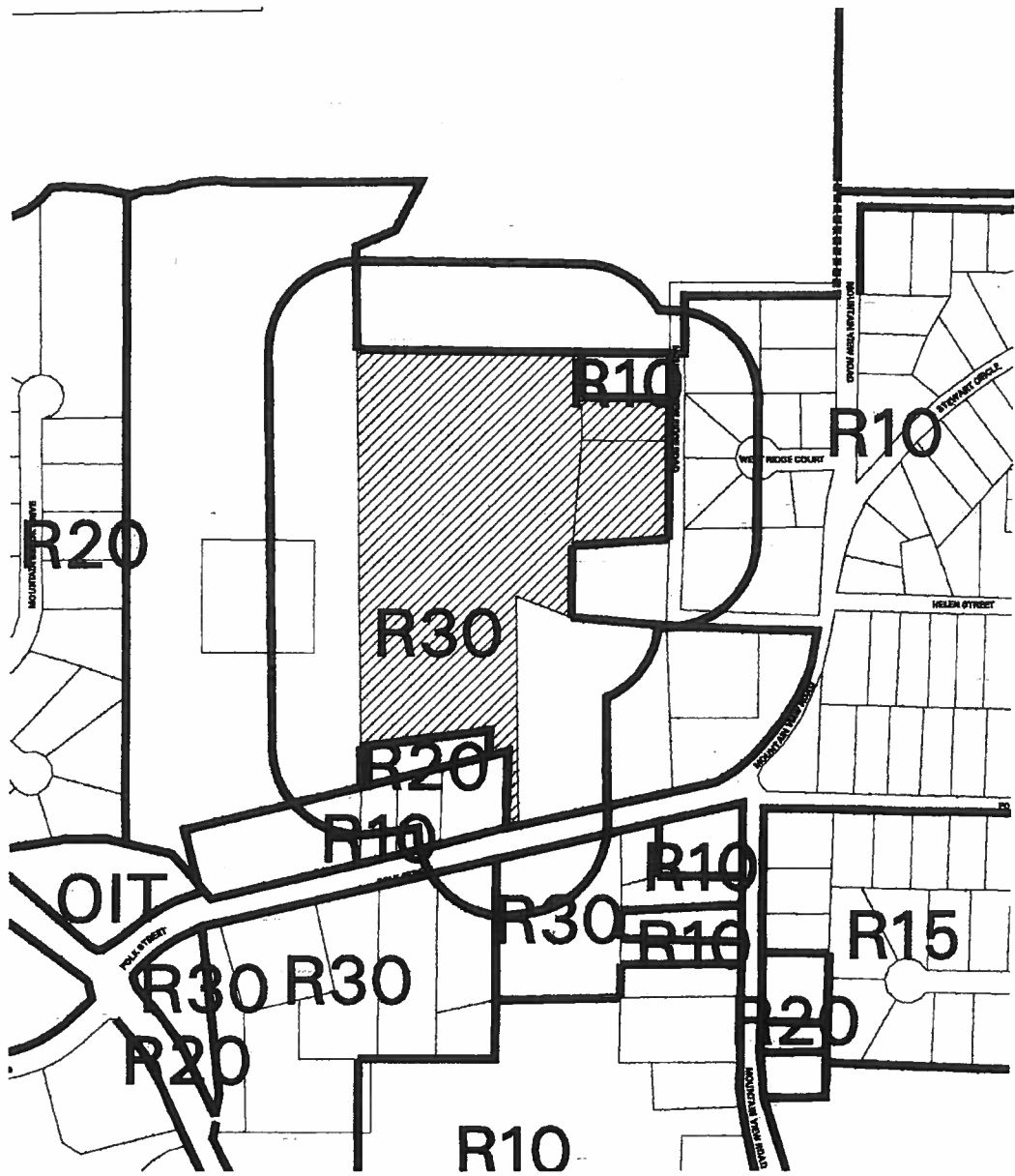
Developer:

By: _____
Title: _____

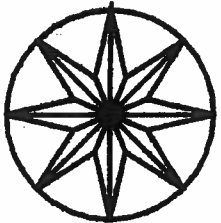
Signed, sealed and delivered
in the presence of:

Witness
Notary Public

REZONING LOCATION MAP



N



PETITION OF:		PARCEL	LL	DIST.	SECT.
FROM:	TO:	SCALE 1" = 400'		DATE	

ZONING DEPARTMENT